
In the United States Bankruptcy Court
for the
Southern District of Georgia
Brunswick Division

In the matter of:

STUART M. ALTMAN
f/d/b/a Newcastle Liquors
f/d/b/a Glynn Package Store

Debtor

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Chapter 7 Case

Number 89-20442

ORDER ON MOTION FOR ATTORNEY'S FEES
OF CREDITOR JIM BENNISON

On August 15, 1991, Jim Bennison moved this Court for an award of attorney's fees which he incurred in responding to the Debtor's Motion to Reopen his Chapter 7 Case in order to include the Bennison debt within the discharge which Debtor received.

On May 23, 1991, I entered an Order allowing Debtor to reopen his case conditioned upon his payment of Bennison's reasonable attorney's fees which were unnecessarily incurred as a result of Bennison's collection efforts that were undertaken without knowledge of the bankruptcy. However, I subsequently entered an Order on Bennison's Motion to Amend Findings concluding that I had erred in my May 23rd Order. As a result I denied the Motion to Reopen and ordered the case "closed without the addition of Mr. Bennison as a creditor." That Order was signed on July 9th and entered on July 16, 1991.

Inasmuch as the only basis on which I ruled that attorney's fees should be awarded Bennison was to compensate him for the harm he had suffered in pursuing state law collection efforts in the absence of knowledge of the filing of the bankruptcy, only to later have his debt discharged, and since I have subsequently reconsidered that order which would have permitted the discharge of the debt, Mr. Bennison remains at liberty to pursue his state law collection efforts of the indebtedness owed by Altman. My ruling that Altman was obligated to compensate Bennison for unnecessarily incurred legal expense as a precondition to having his case reopened is no longer relevant and Bennison's Motion for an Award of Attorney's Fees in this case is denied. Bennison may pursue such claim for attorney's fees in any court of appropriate jurisdiction.

Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This ____ day of February, 1992.